

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

CASE NO.: 1:CR-01-39

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY SABOWITZ,

Defendant.

**DEFENDANT HARRY SABOWITZ'S MOTION TO COMPEL DISCOVERY
AND EXTENSION OF TIME FOR PRE TRIAL MOTIONS**

Defendant, Harry Sabowitz, by and through undersigned counsel, moves this Court for an order compelling the United States to provide certain discovery, for sanctions if appropriate, and for an extension of time to file pre trial motions.

BACKGROUND:

In this case, the prosecution advances a thirty-one count indictment against the Defendant. Count I -alleges Criminal Conspiracy, Interstate Transportation of Fraudulent Securities, Uttering and Possessing Forged Instruments, and Money Laundering. Counts II-XII, allege Interstate Transportation of Fraudulent securities. Counts XIII-XXIII, allege Uttering and Possessing Counterfeited Securities. Counts XXIV through XXXI, allege Money Laundering.

That, on November 14, 2006, this Court filed an Order setting a motions deadline and ordering all discovery within ten (10) days after the date of the aforementioned Order.

That, on January 7, 2007, after several requests, the prosecution forwarded approximately sixty (60) interviews of various witnesses and indicated that the materials were working copies and not final copies.

That, on January 18, 2007, undersigned counsel forwarded a letter to AUSA Christy Fawcett, indicating receipt of the materials and requesting within ten (10) days of the date of the aforementioned letter the following:

- A. Any and all confessions or statements made by my client;
- B. The reports of physical or mental examinations and scientific tests or experiments made in connection with the case;
- C. Books, papers, documents, and descriptions of tangible objects;
- D. My client's prior criminal record;
- E. Any and all *Brady* and/or *Giglio* material;
- F. All plea agreements, PSI's, and judgments of any related defendants in this matter;
- G. A copy of the original indictment of Abraham Zucker, et al;
- H. Disclosure of information regarding any confidential informant; and
- I. Any and all expert witnesses that the prosecution intends to call at the trial of this cause.

(See Exhibit I-Letter to AUSA Christy Fawcett, dated January 18, 2007).

That, to date, undersigned counsel has not received any further discovery, nor a response to the aforementioned letter.

MEMORANDUM OF LAW:

Rule 16(a)(1) of the Federal Rules of Criminal Procedure, Information Subject to Disclosure, indicates that upon a defendant's request, the government must disclose to the defendant various items including the following:

Defendant's Written or Recorded Statement; Defendant's Prior Record; books, papers, documents, data, photographs, tangible objects, buildings or places; Reports of Examinations and Tests; and Disclosure of Expert Witnesses.

All of the aforementioned items appear on page #2 of this Court's Order regulating discovery.

Rule 16(d)(1), Protective and Modifying Orders, indicates that at any time the

court may, for good cause, deny, restrict, or defer discovery or inspection, or grant other appropriate relief. Subparagraph (2), Failure to Comply, indicates that if a party fails to comply with this rule, the Court may:

- (A) order that party to permit the discovery or inspection; specify its time, place, and manner; and prescribe other just terms and conditions;
- (B) grant a continuance;
- (C) prohibit that party from introducing the undisclosed evidence; or
- (D) enter any other order that is just under the circumstances.

It is next to impossible to prepare pre trial motions without the receipt of all discovery nor is it possible to properly prepare for trial without the evidence that the Defendant is entitled to.

WHEREFORE, for the above stated reasons, the Defendant, Harry Sabowitz, respectfully requests that this Court grant this motion and extend the time in which to file pre trial motions to thirty (30) days from the date of the receipt of all discovery and to order any other sanctions that the Court feels are appropriate under the circumstances.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished this _____ day of _____, 2007 to Assistant United States Attorney, Christy Fawcett, United States Courthouse, 228 Walnut Street, 2nd Floor, P.O. Box 11754, Harrisburg, PA 17108.

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